

Message Text

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ACTION L-03

INFO OCT-01 ARA-06 ISO-00 SSO-00 SS-15 PM-04 MC-02 AID-05

IGA-02 EB-07 NRC-05 NSAE-00 TRSE-00 ERDA-05 CIAE-00

COME-00 NSCE-00 USIE-00 INRE-00 /055 W

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O R 312307Z AUG 76

FM AMEMBASSY QUITO

TO SECSTATE WASHDC IMMEDIATE 1368

INFO USAFSO

SECDEF

USCINCSO

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E.O. 11652: N/A

TAGS: PFOR, MILI, EC

SUBJECT: EXCHANGE OF NOTES ON SEC. 505 CHANGES

REF: (A) QUITO 5758, (B) STATE 202005

1. IN MEETING WITH DCM AND EMBOFFS JUNE 31, AMB. GUSTAVO RUALES, DIRECTOR OF POLITICAL AFFAIRS AND THIRD RANKING OFFICIAL IN FONMIN, EXPRESSED RESERVATIONS WITH REGARD TO TEXT OF EMBASSY NOTE SEEKING GOE ASSURANCES RE AMENDMENTS TO SEC. 505(A) OF FAA. RUALES CONCERNS DEALT WITH (1) EXTENT OF COMMITMENT OF GOE TO PREVENT TRANSFER OF TRAINING AND SERVICES (PARA. 1.B. OF ASSURANCES) AND PROBLEMS WITH SUCH PREVENTION IN CASES WHERE EX-TRAINEES ARE NO LONGER GOE EMPLOYEES OR UNDER ITS CONTROL; (2) QUESTION OF HOW USG INTENDS TO APPLY PARA. 3 OF THE ASSURANCES AGREEING TO "CONTINUOUS OBSERVATION AND REVIEW."

2. DCM NOTED THAT IDENTICAL PROVISIONS HAVE BEEN IN EFFECT WITH REGARD TO GRANT MATERIEL FOR YEARS AND THAT OTHER COUNTRIES HAVE ACCEPTED THEIR EXTENTION TO TRAINING AND SERVICES. HE ALSO EMPHASIZED THAT THE FAA HAD

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BEEN AND WOULD BE INTERPRETED IN A REASONABLE MANNER AND

NOT AS TO VIOLATE ECUADOREAN SOVEREIGNTY. IN ORDER TO ASSIST THE GOE'S CONSIDERATION OF OUR NOTE, DCM AGREED TO PASS TO THE FOREIGN MINISTRY AN AIDE MEMOIRE PROVIDING CLARIFICATION OF THE POINTS RAISED BY RUELES. RUELES INDICATED THAT SUCH AN AIDE MEMOIRE WOULD INSURE FAVORABLE ACTION ON OUR NOTE. FOR DEPARTMENT'S REVIEW AND APPROVAL FOR TRANSMISSION TO GOE, THERE FOLLOWS TEXT OF AIDE MEMOIRE PREPARED BY EMBASSY:

3. "WITH REFERENCE TO THIS EMBASSY'S NOTE NO. 44, DATED AUGUST 17, 1976, WHICH PROPOSED AN EXCHANGE OF NOTES BETWEEN OUR TWO GOVERNMENTS ON THE SUBJECT OF THE PROVISION OF DEFENSE SERVICES AND TRAINING BY THE GOVERNMENT OF THE UNITED STATES TO THE GOVERNMENT OF ECUADOR, THE EMBASSY WOULD LIKE TO MAKE THE FOLLOWING CLARIFICATIONS:

4. "THE LANGUAGE IN PARAGRAPH 1.B., WHICH REFERS TO ASSURANCES THAT TRAINING AND DEFENSE SERVICES WILL NOT BE TRANSFERRED BY THE GOVERNMENT OF ECUADOR OR ITS EMPLOYEES, SHOULD BE UNDERSTOOD AS REASONABLE EFFORTS TO EFFECT THAT END. IN OTHER WORDS, THE GOVERNMENT OF ECUADOR WOULD THEREBY AGREE NOT TO TRANSFER KNOWINGLY ANY SUCH SERVICES OR TRAINING AND TO TAKE REASONABLE STEPS TO PREVENT ANY OFFICER, EMPLOYEE, OR AGENT OF THE GOVERNMENT FROM DOING SO. IT IS ALSO RECOGNIZED THAT CONTROL OVER SUCH INDIVIDUALS ONCE THEY LEAVE GOVERNMENT SERVICE OR OVER INDIVIDUALS WHO, WILLFULLY AND IN DISREGARD OF THE LAW OR GOVERNMENT REGULATIONS, SURREPTITIOUSLY TRANSFER SUCH SERVICES OR TRAINING PRESENTS PROBLEMS. THE GOVERNMENT OF ECUADOR COULD NOT BE HELD TO A STANDARD HIGHER THAN ONE OF REASONABLE EFFORT.

5. "WITH REGARD TO THE LANGUAGE IN PARAGRAPH 3 OF THE ASSURANCES SOUGHT FROM THE GOVERNMENT OF ECUADOR, WITH REFERENCE TO PERMITTING CONTINUOUS OBSERVATION AND REVIEW BY REPRESENTATIVES OF THE UNITED STATES GOVERNMENT WITH REGARD TO SUCH SERVICES OR TRAINING, THE EMBASSY NOTES THAT SUCH IS CURRENTLY THE PRACTICE WITH TRAINING AND SERVICES PROVIDED BY THE UNITED STATES GOVERNMENT AND HAS BEEN SINCE THE INAUGURATION OF THE UNITED STATES LIMITED OFFICIAL USE

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GRANT ASSISTANCE PROGRAM, AS ESTABLISHED IN THE FOREIGN ASSISTANCE ACT OF 1961. IT IS EMPHASIZED THAT THE INTEREST OF THE UNITED STATES GOVERNMENT IN OBSERVATION AND REVIEW OF SERVICES AND TRAINING PROVIDED IS AS MUCH TO ASSURE THE EFFICACY OF THAT TRAINING AS TO ASSURE THAT PERSONNEL TRAINED ARE PROPERLY AND EFFECTIVELY UTILIZED. THE LATTER CONCERN HAS BEEN MET BY EFFORTS TO INSURE THAT TRAINEES ARE EMPLOYED IN THE SKILL FOR WHICH TRAINED FOR

A PERIOD RANGING FROM TWO TO THREE YEARS IMMEDIATELY FOLLOWING THEIR TRAINING, WHENEVER POSSIBLE. UNDER NORMAL CIRCUMSTANCES, THE OBSERVATION AND REVIEW REQUIREMENT HAS BEEN SATISFIED BY THE PREPARATION OF PERIODIC REPORTS BY THE APPROPRIATE OFFICE IN THE ARMED FORCES OF ECUADOR. IN ADDITION, PERSONNEL ASSIGNED TO THE MILITARY LIAISON OFFICE OF THIS EMBASSY ROUTINELY, AND AS AN INTEGRAL PART OF THEIR LIAISON FUNCTION WITH THE ARMED FORCES OF ECUADOR, OBSERVE THE IMPLEMENTATION OF TRAINING AND DEFENSE SERVICES. IN ALL CASES, AS IN ALL LIAISON FUNCTIONS, SUCH OBSERVATION OCCURS ONLY AFTER CONSULTATION WITH APPROPRIATE OFFICIALS IN THE ECUADOREAN ARMED FORCES AND AFTER APPROVAL IS OBTAINED FROM THOSE OFFICIALS. THUS, IN PRACTICE THIS 'OBSERVATION AND REVIEW' REQUIREMENT IS FULFILLED EITHER BY REPORTS PREPARED BY ECUADOREAN OFFICIALS IN COOPERATION WITH OUR LIAISON PERSONNEL, OR BY OBSERVATION BY LIAISON PERSONNEL AFTER OBTAINING PERMISSION OF ECUADOREAN OFFICIALS.

6. "WE WOULD ADD TWO FURTHER POINTS. FIRST, THE GOVERNMENT OF ECUADOR, OF COURSE, RETAINS THE RIGHT TO DEFINE THE TERM 'CONTINUOUS OBSERVATION AND REVIEW' IN A MANNER ACCEPTABLE TO IT. IN THE EVENT THE TWO GOVERNMENTS DISAGREED OVER THE INTERPRETATION, THE UNITED STATES GOVERNMENT WOULD HAVE THE OPTION OF REFUSING TO PROVIDE FURTHER TRAINING OR SERVICES UNDER THE AGREEMENT AND THE GOVERNMENT OF ECUADOR WOULD HAVE THE OPTION TO REFUSE TO ACCEPT ANY FURTHER TRAINING OR SERVICES. SECOND, IT SHOULD BE NOTED THAT THE EXCHANGE OF NOTES DOES NOT GRANT THE UNITED STATES GOVERNMENT AUTHORITY TO ENFORCE THESE PROVISIONS IN DEROGATION OF ECUADOREAN SOVEREIGNTY; IT WOULD APPEAR THAT THE ONLY RECOURSE AVAILABLE WOULD BE THE RIGHT OF THE UNITED STATES GOVERNMENT TO REFUSE TO PROVIDE FURTHER LIMITED OFFICIAL USE

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TRAINING OR SERVICES. IN PRACTICE, AND IN THE ABSENCE OF FURTHER, MORE RESTRICTIVE DIRECTION, THE EMBASSY ANTICIPATES THAT THE PROVISION OF THE ASSURANCES REQUESTED BY THE UNITED STATES GOVERNMENT OF THE GOVERNMENT OF ECUADOR IN THE EXCHANGE OF NOTES WOULD ENTAIL NO CHANGES FROM CURRENT AND PAST PRACTICE."

7. AS DEPARTMENT IS AWARE FROM REF A, ECUADOREAN AIR FORCE HAS BEEN VERY EAGER TO TAKE ADVANTAGE OF IAFA COURSE IN PANAMA COMMENCING AUGUST 31, AND LOSS OF TRAINING WOULD BE DETRIMENTAL TO OUR MILITARY PROGRAM HERE. FORTUNATELY, IAFA HAS BEEN MOST COOPERATIVE AND HAS AGREED TO HOLD OPEN THE 36 SLOTS FOR ECUADOR UNTIL SEPTEMBER 2 ON THE CHANCE THAT EXCHANGE OF NOTES CAN BE ACHIEVED BY THEN. THEREFORE WE REQUEST REPLY AUTHORIZING DELIVERY OF AIDE MEMOIRE NO

LATER THAN 1200 HOURS REPEAT 1200 HOURS SEPTEMBER 1.
WE REGRET URGENT NATURE OF THIS REQUEST, BUT ONE MAJOR
PROBLEM HERE HAS BEEN SUSPICION OF FOREIGN MINISTRY THAT
EMBASSY IS TRYING TO PULL A FAST ONE, USING POSSIBILITY
OF LOSING TRAINING SLOTS AS THREAT TO FORCE EXCHANGE
OF NOTES. THIS PROBLEM STEMS FROM FACT THAT LATE
NOTICE BY DEPARTMENT THAT EXCHANGE WOULD BE REQUIRED
HAS PREVENTED NORMAL, RELAXED CONTACT WITH FONMIN ON
THIS SUBJECT.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: PERSONNEL TRAINING, SECURITY, POLICIES, MILITARY ASSISTANCE PROGRAMS, AMENDMENTS, DIPLOMATIC NOTES
Control Number: n/a
Copy: SINGLE
Draft Date: 31 AUG 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: ShawDG
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976QUITO06229
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760330-1108
From: QUITO
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t1976083/aaaaabvy.tel
Line Count: 179
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION L
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 76 QUITO 5758, 76 STATE 202005
Review Action: RELEASED, APPROVED
Review Authority: ShawDG
Review Comment: n/a
Review Content Flags:
Review Date: 20 JUL 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <20 JUL 2004 by SmithRJ>; APPROVED <02 NOV 2004 by ShawDG>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: EXCHANGE OF NOTES ON SEC. 505 CHANGES
TAGS: PFOR, MILI, EC, US, FAA
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006